



Paper No. 7

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Kerievsky, Bruce
Application No. 09/610,128
Filed: July 5, 2000
For: Interactive Talking Electronic Cookbook

This is a decision on the petition under 37 CFR 1.137(b), filed December 3, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the non-final Office action mailed January 7, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 8, 2003. A Notice of Abandonment was mailed August 13, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply,¹
- (2) the petition fee,
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
- (4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.²

¹ In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

² See MPEP 711.03(c)(III)(C) and (D).

The instant petition does not lack any of the above items. However, in accordance with 37 CFR § 1.52, all papers, other than drawings, that are to become a part of the permanent United States Patent and Trademark Office records in the file of a patent application or reexamination proceeding must be on sheets of paper that are the same size, and:

- (i) Flexible, strong, smooth, non-shiny, durable, and white;
- (ii) Either 21.0 cm by 29.7 cm (DIN size A4) or 21.6 cm by 27.9 cm (8 1/2 by 11 inches), with each sheet including a top margin of at least 2.0 cm (3/4 inch), a left side margin of at least 2.5 cm (1 inch), a right side margin of at least 2.0 cm (3/4 inch), and a bottom margin of at least 2.0 cm (3/4 inch);
- (iii) Written on only one side in portrait orientation;**
- (iv) Plainly and legibly written either by a typewriter or machine printer in permanent dark ink or its equivalent; and
- (v) Presented in a form having sufficient clarity and contrast between the paper and the writing thereon to permit the direct reproduction of readily legible copies in any number by use of photographic, electrostatic, photo- offset, and microfilming processes and electronic capture by use of digital imaging and optical character recognition.

The response filed with the instant petition on December 3, 2003, does not satisfy the third requirement. Petitioner must submit the response in the appropriate orientation in order to revive the above-identified application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the existing Customer Window located at:

2011 South Clark Place
Crystal Plaza 1 Lobby
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Arlington, VA 22202

The centralized facsimile number is (703) 872-9306.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.



Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy